

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD BRIGGS & EUNICE BRIGGS,

Plaintiffs,

-against-

STELLAR RECOVERY, INC.,

Defendant.

**VERIFIED COMPLAINT and DEMAND
FOR JURY TRIAL**

NOW COME Plaintiffs, Richard Briggs & Eunice Briggs ("Plaintiffs"), by and through their attorneys, Krohn & Moss, Ltd., for their Verified Complaint against Defendant, Stellar Recovery, Inc. ("Defendant"), allege as follows:

Nature of the Action

1. This action is brought by Plaintiffs pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

Parties

2. Plaintiffs are natural persons residing in Rochester, Monroe County, New York.
3. Defendant is a company conducting business in the state of New York.
4. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6).
5. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

6. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

7. Because Defendant is principally located in the state of Minnesota, and conducts business in New York, personal jurisdiction is established

8. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

Factual Allegations

9. Defendant constantly and continuously places collection calls to Plaintiffs seeking and demanding payment for a debt Plaintiffs do not owe.

10. Defendant contacts Plaintiffs in an attempt to collect a debt owed by their daughter.

11. Defendant has been calling Plaintiffs since around December of 2010, and calls everyday, two (2) to three (3) times per day.

12. Defendant contacts Plaintiffs on their home telephone number and on their business number.

13. Defendant contacts Plaintiffs from 888-638-6899.

14. Plaintiffs informed Defendant numerous times that their daughter does not live with them and asked that Defendant stop calling.

15. Despite their request, Defendant continuous to call.

CLAIM FOR RELIEF

16. Defendant’s violations of the FDCPA include, but are not limited to, the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress or abuse Plaintiffs in connection with the collection of a debt; and
- b. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiffs' telephones to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiffs;

17. Plaintiffs are entitled to their attorney's fees and costs incurred in this action.

WHEREFORE, Plaintiffs pray that judgment be entered against Defendant for the following:

- (1) Statutory damages of \$1, 000 pursuant to 15 U.S.C. § 1692k;
- (2) Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and
- (3) Awarding such other and further relief as may be just, proper and equitable.

Dated: March 31, 2011

KROHN & MOSS, LTD.

By: 

Adam T. Hill
KROHN & MOSS, LTD.
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Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiffs, Richard Briggs & Eunice Briggs, hereby demand a jury trial in this matter.

VERIFICATION

STATE OF NEW YORK)

:ss.:

COUNTY OF Monroe)

Plaintiff, Eunice Briggs, being duly sworn, deposes and says:

1. I am the Plaintiff in this civil proceeding;
2. I have read the foregoing Verified Complaint prepared by my attorneys and I believe that all of the facts contained therein are true and correct, to the best of my knowledge, and formed after reasonable inquiry;
3. I believe that this civil Complaint is well ground in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law;
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint
5. I have filed this Complaint in good faith and solely for the purposes set forth in it;
6. Each and every exhibit I have provided to my attorneys, which has/have been attached to this Complaint, is/are true and correct copy(s) of the original(s); and
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated the exhibit(s), except that some of the attached may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, Eunice Briggs, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 5/23/11

Eunice A. Briggs
Eunice Briggs

VERIFICATION

STATE OF NEW YORK)

:SS.:

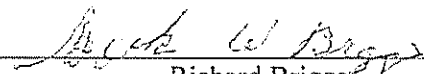
COUNTY OF Monroe)

Plaintiff, Richard Briggs, being duly sworn, deposes and says:

1. I am the Plaintiff in this civil proceeding;
2. I have read the foregoing Verified Complaint prepared by my attorneys and I believe that all of the facts contained therein are true and correct, to the best of my knowledge, and formed after reasonable inquiry;
3. I believe that this civil Complaint is well ground in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law;
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it;
6. Each and every exhibit I have provided to my attorneys, which has/have been attached to this Complaint, is/are true and correct copy(s) of the original(s); and
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated the exhibit(s), except that some of the attached may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, Richard Briggs, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 3/23/11


Richard Briggs